

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MIKEL SPAHI,
Plaintiff,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT ET AL.,
Defendants.

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CIVIL ACTION NO.
3:07-cv-00908 (VLB)

November 26, 2007

MEMORANDUM OF DECISION
GRANTING DEFENDANTS' MOTION TO DISMISS [Doc. #13]

The plaintiff, Mikel Spahi, an alien awaiting deportation, filed this action pro se against the defendants, United States Immigration and Customs Enforcement (ICE) and two of its attorneys, John Marley and Leigh Mapplebeck. The plaintiff claims that he suffered “mistreatment/abuse” by the defendants and that they “misinformed and lied to” him when he was arrested at the ICE office in Hartford, Connecticut. [Complaint, Doc. #3, p. 8] The plaintiff seeks monetary damages and injunctive relief, namely, release from custody and a green card.

Pursuant to Fed. R. Civ. P. 12(b)(1), the defendants have filed a motion to dismiss on the ground that the plaintiff has failed to exhaust his administrative remedies and, therefore, the Court lacks subject matter jurisdiction. As the defendants point out in their memorandum in support of the motion to dismiss, the plaintiff has failed to file a complaint for monetary damages with the Department of Homeland Security pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671 et seq. “An action shall not be instituted upon a claim against the

United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing”

28 U.S.C. § 2675. As to the plaintiff's request for injunctive relief, there is no appeal from ICE's decision to detain the plaintiff until he is deported. See 8 C.F.R. § 241.4(d).

The defendants' motion to dismiss [Doc. #13] is GRANTED. The Clerk is directed to CLOSE this case.

IT IS SO ORDERED.

/s/
Vanessa L. Bryant
United States District Judge

Dated at Hartford, Connecticut: November 26, 2007.